

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF MICHIGAN  
SOUTHERN DIVISION

ERYC YOUNG-EL,

Plaintiff,

v.

RICHARD HIGHTOWER, SCOTT G.  
REYNOLDS, and MICHIGAN  
DEPARTMENT OF CORRECTIONS,

Defendants.

Case Number 10-11399  
Honorable David M. Lawson  
Magistrate Judge Paul J. Komives

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**ORDER DENYING PLAINTIFF-APPELLANT'S MOTION FOR  
APPOINTMENT OF COUNSEL ON APPEAL**

On February 11, 2011, the Court entered an order dismissing the plaintiff's complaint with prejudice and a judgment in favor of the defendants. The plaintiff filed a Notice of Appeal to the Sixth Circuit Court of Appeals on March 7, 2011. Subsequently, the plaintiff also filed a motion for appointment of counsel with this Court, seeking to obtain counsel for his appeal. However, "[a]s a general rule, a district court no longer has jurisdiction over an action as soon as a party files a notice of appeal, and at that point the appellate court assumes jurisdiction over the matter." *Pittock v. Otis Elevator Co.*, 8 F.3d 325, 327 (6th Cir. 1993). There are some exceptions to this rule, such as when the appeal is untimely, the appellate court previously decided the issues taken up on appeal in the same case, the party attempts to appeal from an order that is not final or appealable, or the plaintiff files an application to proceed *in forma pauperis*, which the district court may consider in certain contexts. *See ibid.*; 28 U.S.C. § 1915(a)(1) (permitting "any court of the United States" to authorize the commencement of a lawsuit or the appeal thereof without prepayment of the fees, if the applicant furnishes the proper information). The plaintiff's motion to appoint counsel does not

fall into any of these exceptions. Therefore, the district court does not have jurisdiction over this motion and will deny the motion without prejudice to the plaintiff submitting the motion to the Sixth Circuit Court of Appeals, which presently has jurisdiction over his case.

Accordingly, it is **ORDERED** that the plaintiff's motion for appointment of counsel [dkt #21] is **DENIED WITHOUT PREJUDICE**.

s/David M. Lawson  
DAVID M. LAWSON  
United States District Judge

Dated: May 4, 2011

**PROOF OF SERVICE**

The undersigned certifies that a copy of the foregoing order was served upon each attorney or party of record herein by electronic means or first class U.S. mail on May 4, 2011.

s/Deborah R. Tofil  
DEBORAH R. TOFIL